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DIVISION INDUSTRIAL ACCIDENTS

1976

Annual Report

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April 1, 1977

DIVISION OF INDUSTRIAL ACCIDENTS

ANNUAL REPORT

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Preface

The Division of Industrial Accidents is charged with the responsibility for the administration and enforcement of Chapter 152 of the General Laws. The statutory authority for the Division is Sections 14 to 24 of Chapter 23 of the General Laws. The Division is placed within the Executive Office of Manpower Affairs by Section 17 of Chapter 6A of the General Laws.

The Division is organized along functional lines to achieve optional use of staff expertise and resources. (See Organizational Chart)

The Industrial Accident Board, an integral part of the Division, is composed of twelve permanent members appointed for twelve year terms. One member is designated by the Governor as Chairman and serves co-terminous with the Governor.

The primary functions of the Division are to enforce the coverage provisions of Chapter 152 of the General Laws by ensuring that all employers of one or more persons have a contract of insurance or meet the statutory requirements for self-insurance; to keep records of injuries reported under the statute; to approve agreements regarding compensation; and to adjudicate disputed claims arising from the provisions of Chapter 152.

This Annual Report of the Division of Industrial Accidents is published under the authority provided in Section 4 of Chapter 152 of the General Laws as amended.

Members of the Industrial Accident Board and Principal Personnel

Industrial Accident Board

<u>Name</u>	<u>Date of Original Appointment</u>	<u>Term Expires</u>
Harry Demeter, Jr. 10 Meadow Brook Road Dover	June 9, 1955	June 3, 1977
George D. Hammond 96 Webster Avenue Westfield	September 25, 1974	June 9, 1978
Joseph J. Donovan 52 Crane Road Marshfield	September 24, 1964	January 31, 1979
Raymond M. Trudel 43 McCormick Terrace Stoughton	October 16, 1968	June 26, 1980
Edward S. Zelazo 8 Summer Street Adams	July 23, 1969	June 26, 1981
Robert J. Kelly 42 Russell Street Milton	May 13, 1970	January 31, 1982
Dorothy A. Antonelli 304 Lake Street Belmont	July 14, 1966	May 31, 1983
Joseph J. Pulgini 41 Prospect Street Hyde Park	December 20, 1962	July 5, 1984

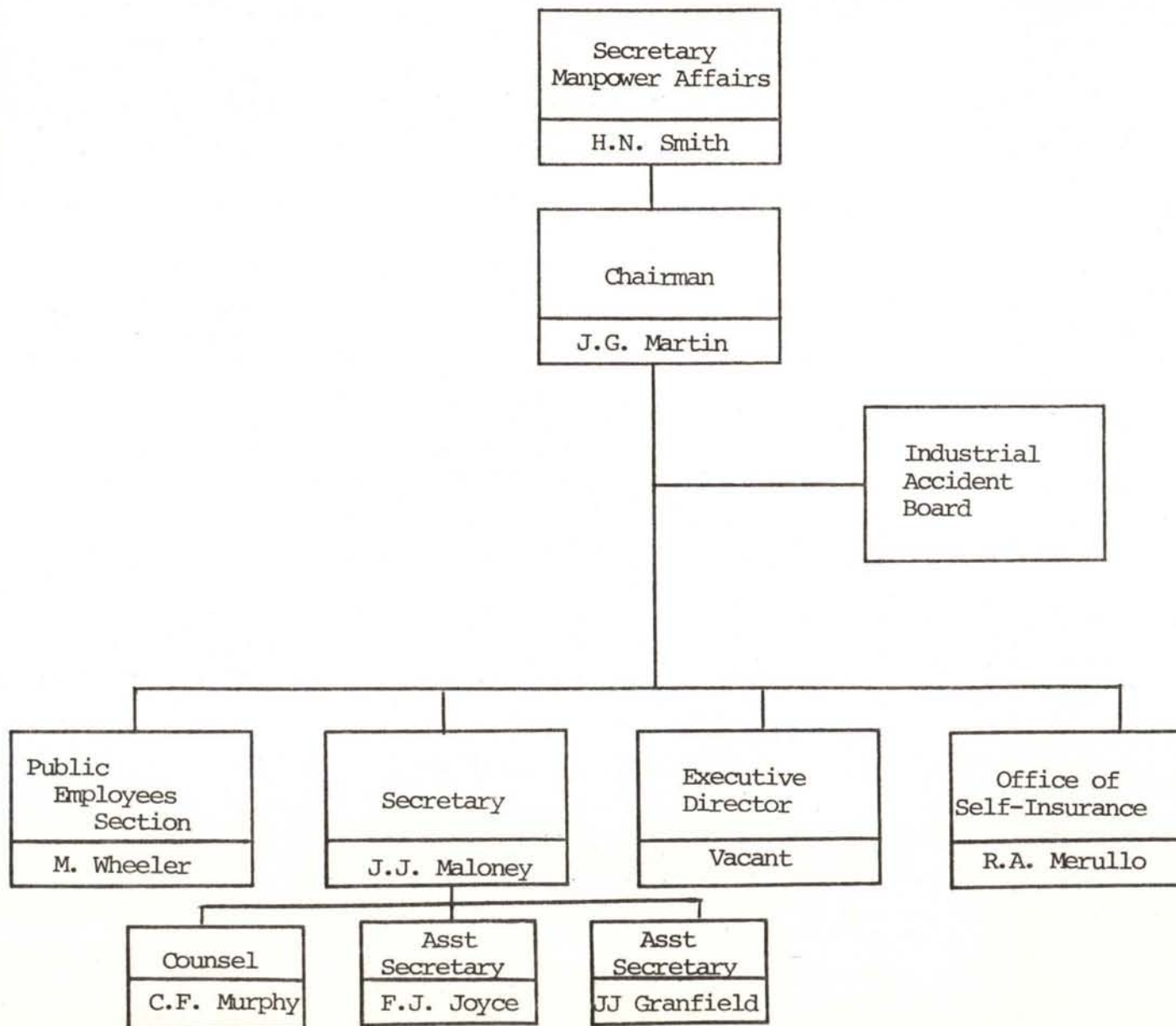
Members of the Industrial Accident Board and Principal Personnel

<u>Name</u>	<u>Date of Original Appointment</u>	<u>Term Expires</u>
Wallace B. Crawford 103 Spadina Parkway Pittsfield	February 16, 1966	September 21, 1985
Salvatore Musco, Jr. 35 Apache Trail Arlington	December 31, 1974	September 21, 1986
John G. Martin, Chairman 36 Flagg Road Southborough	May 29, 1975	May 25, 1987
Nicholas J. Vergados 361 Riverside Street Lowell	July 31, 1976	July 29, 1988

Principal Division Personnel

<u>Name</u>	<u>Title</u>
John J. Maloney	Secretary of the Board
Roland A. Merullo	Director, Office of Self Insurance
Joseph J. Granfield	Assistant Secretary
Francis J. Joyce	Assistant Secretary
Charles F. Murphy	Counsel
Marion Wheeler	Supervisor, Workmen's Compensation Agents

DIVISION OF INDUSTRIAL ACCIDENTS



1976 HIGHLIGHTS

Advisory Group on the Administration of Workmen's Compensation

In the fall of 1976, at the request of Howard N. Smith, Secretary of Manpower Affairs, a broad based committee was formed to examine the administration of workmen's compensation and to make recommendations for improvement. The full report of the Advisory Group is contained in Appendix A.

Cooperative Program with Massachusetts Rehabilitation Commission

In an effort to improve the delivery of rehabilitation services to the industrially injured, the Division has entered into a cooperative agreement with the Massachusetts Rehabilitation Commission. Under the program the MRC has furnished the services of a staff counselor who is stationed in the offices of the Division. This person acts as a liaison between the Industrial Accident Board, the Industrial Accident Rehabilitation Board and MRC improving the system for screening cases and referring interested claimants to proper counseling facilities. In addition, the program has raised the consciousness regarding rehabilitation among commissioners, members of the bar, insurers and especially injured workers.

Professionalism Programs

In conjunction with the Suffolk University Law School, the Division has established a Legal Intern Program. Second and third year law students are working for course credit in the Division. While the primary focus is in the area of legal research, the participants have consistently displayed a capacity for expanded duties such as assisting in the preparation of decisions.

In November of 1976 the International Association of Industrial Accident Boards and Commissions held its College of Workmen's Compensation in Boston. Six members of the Massachusetts Industrial Accident Board successfully completed this most comprehensive program. The College has an international reputation and covers all aspects of workmen's compensation.

Members of the Industrial Accident Board were invited to tour Liberty Mutual's Rehabilitation Center. This world-reknowned facility is recognized as a leader in the restoration of the industrially injured and the tour provided illuminating insight into the reasons for its success and the value of rehabilitation programs.

Work Saving Programs

As a part of a continuing effort to implement a philosophy of "machines work-people think", the Division has installed a word-processing center. This center consolidates the typing activities of a number of administrative sections and has drastically reduced the number of pre-printed form letters, increased the effectiveness of division personnel and accelerated the response time for Division correspondence.

Also the Division has recently purchased several courtroom tape recorders which will be used to take verbatim testimony at hearings.

Caseload Activity Programs

In an effort to maximize the utilization of commissioner time and to accelerate the hearing schedules, the Division has instituted several new programs.

Reviewing boards are now scheduled in double sessions on each Monday in Boston and approximately six times a year in Springfield. This procedure has minimized the waiting time for the parties and improved the timely administration of a critical stage in the adjudicating process.

The lists for sittings in locations outside of Boston are now called on the Tuesday of the week preceding. This policy effectively adds a full hearing day to the sitting and permits the parties additional time to make trial arrangements. Thus it has had a significant impact in reducing postponements.

In association with the Massachusetts Bar Association's Subcommittee on Workmen's Compensation the Division has established a conciliation program for cases on the pending hearing list. Attorneys representing the parties are given the opportunity to discuss their cases before an experienced workmen's compensation attorney who has volunteered his time. Every attempt is made to achieve a final disposition of the cases at this time. Failing that, the parties take the opportunity to narrow the issues on those cases that must be tried. The effect in this instance is a shortened trial period and ultimately a speedier decision on the merits. Approximately 1200 cases were scheduled for conciliation in 1976, of this number more than 20% were fully resolved at or shortly after conciliation.

The conciliation program will continue and has been extended to locations outside of the Boston Area.

Administrative ActivityFirst Reports of Injury

	<u>1975</u>	<u>1976</u>
State Employees	10,084	10,156
Self Insurers	26,453	21,276
All Others	<u>187,017</u>	<u>187,805</u>
Total	223,554	218,237

Fatal Cases

1974	571
1975	517
1976	437

Approved Agreements

1974	48,578
1975	25,272
1976	35,149

Impartial Examinations

1974	748
1975	808
1976	1,321

Self-Insurance

No. Self-Insurers	7/1/74	191	7/1/75	209
Applicants		22		33
Approvals		19		27
Removals		1		20

No. Self-Insurers	6/30/75	209	6/30/76	216
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Total Deposits	<u>6/30/75</u>	<u>6/30/76</u>
Cash & Securities	\$35,275,000	\$42,910,000
Assessment for Cost of Administration	<u>FY 1975</u>	<u>FY 1977</u>
	\$207,980	\$193,802
Rate	\$5.896/thousand	\$4.5165/thousand

Manpower Status

Authorized 1/1/75	208	Authorized 1/1/76	193
Filled 1/1/75	180	Filled 1/1/76	144
Filled 12/31/75	144	Filled 12/31/76	133

CASELOAD ACTIVITY

General Comments

During 1976 the Industrial Accident Board nominally operated with eleven sitting commissioners. During the years 1974 and 1975 there were sixteen sitting commissioners, however, the 1976 results clearly indicate that the effect of a one third reduction in the number of sitting commissioners was not a one third reduction in the number of cases completed.

While there was an increase in the number of cases heard and continued, a significant number of these reflect cases where all live testimony was taken and the case was continued only for the submission of medical depositions.

KEY TO TABLESA. CONFERENCES

- Assn - Number of cases scheduled
- Ord - Orders issued under Chapter 152, Section 7
all types
- Adj - Insurer agreed to commence compensation or
pay disputed bills
- L.S. - Cases lump summed - redemption of liability
by insurer
- Hrng - The issues involved cannot be resolved at a
conference
- Medi - Impartial examination ordered
- Inac - The matter is not ripe for adjudication - return
to file
- Ppd - Case postponed - at request of either party with
agreement of other party
- Hold - Case held by Commissioner pending some action by
the parties
- With - One of the parties withdraws request

B. HEARINGS

- Hd - All testimony completed
- Cont - Some testimony taken, more to come on another
day

CASELOAD ACTIVITYREQUESTS FOR CONFERENCE

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	779	876	927	843	1004	978	1162	914	908	1180	993	932	11,496
1975	1323	939	1126	1179	925	919	1093	849	856	899	846	543	11,497
1976	832	759	991	832	1164	944	907	1056	986	1137	835	878	11,321

CASES COMPLETED

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	1099	1175	1086	1183	1409	1267	1146	788	1084	1170	1006	1155	13,577
1975	1181	1037	1171	1292	1296	1251	1086	885	1047	1196	851	926	13,219
1976	709	979	1107	899	922	793	832	1017	1013	1005	1390	878	11,594

	<u>1974</u>	<u>1975</u>	<u>1976</u>
Pending Cases - January 1	13,961	11,880	10,158
Pending Cases - December 31	<u>11,880</u>	<u>10,158</u>	<u>9,885</u>
Net Reduction	2,081	1,722	273

CASES HEARD AND CONTINUED

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	30	62	91	99	66	56	43	56	43	71	88	76	831
1975	84	123	120	120	113	91	112	80	95	112	94	68	1,212
1976	112	81	101	104	105	86	48	55	132	78	66	74	1,042

CASES HEARD AND FINISHED

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	81	69	70	70	70	67	40	53	41	34	42	40	677
1975	54	67	51	65	76	72	61	42	70	73	65	75	771
1976	64	55	72	76	56	52	42	37	53	55	28	50	640

DECISIONS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	73	49	32	81	80	77	73	82	57	76	47	64	791
1975	71	40	42	57	81	62	89	88	108	79	42	69	828
1976	58	56	76	57	47	47	56	69	65	53	67	33	684

CLAIMS FOR REVIEW

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	42	31	24	31	62	58	46	53	32	36	35	34	484
1975	46	25	27	24	37	29	41	73	52	50	44	49	497
1976	28	50	45	43	30	24	35	57	34	40	55	18	457

REVIEWING BOARD DECISIONS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	41	26	8	34	28	22	27	33	33	32	17	19	320
1975	21	25	17	27	32	32	25	18	34	30	41	17	319
1976	27	23	23	28	30	23	18	16	30	15	21	13	267

SECTION 36 DECISIONS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	1	4	2	0	3	2	5	1	1	4	3	2	28
1975	7	2	9	3	4	5	5	5	4	2	1	0	47
1976	5	4	6	4	4	6	2	5	4	7	7	1	55

ORDERS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	348	275	287	355	308	212	310	380	312	343	360	275	3,765
1975	340	359	266	452	426	469	438	280	327	489	360	321	4,527
1976	347	298	312	215	334	303	319	336	430	221	456	389	3,960

CERTIFIED COPIES OF ORDERS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	11	16	12	10	13	22	7	11	15	13	14	7	151
1975	13	17	7	21	15	18	12	19	11	14	21	18	186
1976	11	26	12	8	11	16	12	9	6	9	13	4	137

CERTIFIED COPIES OF DECISIONS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	16	7	14	7	15	14	13	16	16	14	18	8	158
1975	16	14	16	23	16	15	17	10	12	19	7	18	183
1976	12	15	21	13	16	5	6	4	17	7	13	9	138

LUMP SUMS

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
1974	476	524	541	673	552	611	690	467	577	473	470	696	6,750
1975	467	501	660	581	574	703	521	455	537	504	509	570	6,582
1976	377	437	547	382	430	495	417	552	493	498	632	636	5,896

LUMP SUM AWARDS

1974
\$41,272,229

1975
\$49,993,706

1976
\$49,009,867.25

REIMBURSEMENTS

Public Welfare

N/A

\$952,136

\$826,178.70

Veteran's Services

N/A

\$235,418\$264,069.16

TOTAL

\$1,187,554

\$1,090,247.86

1976 ASSIGNMENTS

LOCATION	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
ATTLEBORO	-	1	-	-	-	-	-	-	-	-	-	1	2
BARNSTABLE	1	-	-	-	-	-	-	-	-	-	1	-	2
FALL RIVER	1	1	-	1	-	-	1	1	1	-	1	1	8
FITCHBURG	-	1	1	1	1	1	1	-	1	-	1	1	8
GREENFIELD	-	-	-	-	-	-	1	-	-	-	-	1	2
HOLYOKE	-	1	-	-	1	-	1	-	-	-	1	-	4
LAWRENCE	1	1	2	1	1	1	1	1	1	1	1	-	12
LOWELL	1	1	2	-	1	-	1	1	-	1	1	1	10
LYNN	1	2	2	2	2	1	-	1	1	1	2	-	15
MARLBORO	1	1	1	1	1	-	-	-	1	-	-	1	7
MILFORD	-	-	1	-	-	-	-	1	-	-	-	1	3
NEW BEDFORD	1	1	1	-	1	-	-	1	-	1	1	-	7
PITTSFIELD	1	1	1	1	1	2	-	1	1	1	1	1	12
PLYMOUTH	1	-	1	-	-	1	-	-	1	-	-	-	4
QUINCY	2	2	2	1	2	1	1	-	1	-	1	1	14
SPRINGFIELD	4	1	3	2	3	3	1	2	2	2	1	1	25
STOUGHTON	3	2	2	2	1	3	1	1	-	1	1	2	19
TAUNTON	-	-	1	-	-	1	-	-	1	-	-	-	3
WORCESTER (CLINTON)	4	4	4	3	3	3	1	2	1	2	1	1	29

SUMMARY - 1976

CASELOAD ACTIVITY

CONFERENCES

	ASSN #	ORDI # %	ADJ # %	LSUM # %	HRNG # %	MEDI # %	INAC # %	PPD # %	HOLD # %	WITH # %	OTHER # %
BOSTON	4846	1455 30.0	451 9.3	528 10.9	69 1.4	126 2.6	273 5.6	771 15.9	311 6.4	41 -	21 -
OUT OF TOWN	5176	1593 30.8	649 12.5	899 17.4	134 2.6	164 3.2	382 7.4	798 15.4	244 4.7	81 1.6	83 1.6
TOTAL	10,022	3048 30.4	1100 11.0	1427 14.2	203 2.0	290 2.9	655 6.5	1569 15.6	555 5.5	122 1.2	104 1.0

HEARINGS

	ASSN #	HEARD # %	CONT # %	ADJ # %	LSUM # %	MEDI # %	INAC # %	PPD # %	HOLD # %	WITH # %	OTHER # %
BOSTON	2893	386 13.3	464 16.0	98 3.4	512 17.7	23 -	136 4.7	660 22.8	169 5.8	30 1.0	33 1.1
OUT OF TOWN	3116	296 9.5	270 8.7	285 9.1	871 28.0	33 1.0	277 8.9	738 23.7	203 6.5	52 1.7	73 2.3
TOTAL	6009	682 11.3	734 12.2	383 6.4	1383 23.0	56 -	413 6.9	1398 23.3	372 6.2	82 1.4	106 1.8

1976 BOSTON HEARINGS

	ASSN #	HEARD # %	CONT # %	ADJ # %	LSUM # %	MEDI # %	INAC # %	PPD # %	HOLD # %	WITH # %	OTHER # %
1ST QTR	571	102 17.9	112 19.6	32 5.6	134 21.7	8 1.4	13 2.3	131 22.9	34 6.0	6 1.1	11 1.9
2ND QTR	809	129 15.9	128 15.8	21 2.6	124 15.3	5 -	15 1.9	209 25.8	44 5.4	5 -	9 1.0
3RD QTR	830	60 7.2	102 12.3	20 2.4	144 17.3	6 -	52 6.3	220 26.5	55 6.6	8 1.0	10 1.2
4TH QTR	683	95 13.9	122 17.9	25 3.7	110 16.1	4 -	56 8.2	100 14.6	36 5.3	11 1.6	3 -
TOTAL	2893	386 13.3	464 16.0	98 3.4	512 17.7	23 -	136 4.7	660 22.8	169 5.8	30 1.0	33 1.1

1976 BOSTON CONFERENCES

	ASSN #	ORDI # %	ADJ # %	LSUM # %	HRNG # %	MEDI # %	INAC # %	PPD # %	HOLD # %	WITH # %	OTHER # %
1ST QTR	621	252 40.6	56 9.0	109 17.6	13 2.1	34 5.5	31 5.0	67 10.8	54 8.7	- -	3 -
2ND QTR	1248	364 29.2	152 12.2	100 8.0	20 1.6	33 2.6	59 4.7	209 16.7	96 7.7	10 -	6 -
3RD QTR	1525	471 30.9	147 9.6	162 10.6	19 1.2	29 1.9	87 5.7	316 30.7	73 4.8	21 1.4	5 -
4TH QTR	1452	368 25.3	96 6.6	157 10.8	17 1.2	30 2.1	96 6.6	179 12.3	88 6.1	10 -	7 -
TOTAL	4846	1455 30.0	451 9.3	528 10.9	69 1.4	126 2.6	273 5.6	771 15.9	311 6.4	41 -	21 -

1976 OUT OF TOWN CONFERENCES

	ASSN #	ORDI # %	ADJ # %	LSUM # %	HRNG # %	MEDI # %	INAC # %	PPD # %	HOLD # &	WITH # %	OTHER # %
1ST QTR	1566	413 26.4	190 12.1	268 17.1	51 3.3	67 4.3	128 8.2	296 18.9	54 3.4	23 1.5	29 1.9
2ND QTR	1222	363 29.7	166 13.6	209 17.1	25 2.0	34 2.8	93 7.6	180 14.7	64 5.2	26 2.1	17 1.4
3RD QTR	1166	388 33.2	166 14.2	178 15.3	32 2.7	34 2.9	80 6.9	166 14.2	72 6.2	12 1.0	8 -
4TH QTR	1222	429 36.1	127 10.4	244 20.0	26 2.1	29 2.4	81 6.6	156 12.8	54 4.4	20 1.6	29 2.4
TOTAL	5176	1593 30.8	649 12.5	899 17.4	134 2.6	164 3.2	382 7.4	798 15.4	244 4.7	81 1.6	83 1.6

1976 OUT OF TOWN HEARINGS

	ASSN #	HEARD # %	CONT # %	LSUM # %	ADJ # %	MEDI # %	INAC # %	PPD # %	HOLD # %	WITH # %	OTHER # %
1ST QTR	1133	88 7.8	110 9.7	314 27.7	75 6.6	13 1.1	106 9.4	305 26.9	75 6.6	14 1.2	28 2.5
2ND QTR	863	93 10.8	72 8.3	243 28.1	92 10.7	9 1.0	84 9.7	174 20.2	52 6.0	17 2.0	22 2.5
3RD QTR	613	45 7.3	58 9.5	166 27.1	61 10.0	5 -	47 7.7	158 25.8	48 7.8	12 1.9	8 1.3
4TH QTR	507	70 13.8	30 5.9	148 29.2	57 11.2	6 -	40 7.9	101 19.9	28 5.5	9 1.8	15 2.9
TOTAL	3116	296 9.5	270 8.7	871 28.0	285 9.1	33 1.0	277 8.9	738 23.7	203 6.5	52 1.7	73 2.3

APPENDIX A



The Commonwealth of Massachusetts

Division of Industrial Accidents

Leverett Saltonstall Building, Government Center

100 Cambridge Street, Boston 02202

JOHN G. MARTIN
CHAIRMAN

Howard N. Smith, Secretary
Executive Office of Manpower Affairs
State House - Room 212
Boston, Massachusetts

Dear Secretary Smith:

The Advisory Group on Workmen's Compensation herewith submits its summary report of recommendations to improve the administration of the workmen's compensation system in the Commonwealth.

At a series of meetings from September through December, the Advisory Group focused primarily on the recommendations of the Governor's Management Task Force. This report reflects the unanimous position taken on these recommendations and other subjects.

I would like to commend the members for giving so freely of their time and effort. Certainly, their participation is illustrative of their concern and interest in this most important area of state government.

We hope that these recommendations will provide meaningful assistance to you, the Governor, the General Court and the citizens of the Commonwealth in the collective effort to improve the administration of the Workmen's Compensation law.

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Introduction

The efficient and fair administration of the workmen's compensation system ultimately affects virtually all workers in the Commonwealth by providing a sense of security against economic disruption from on-the-job injury. Most certainly, it has a direct and vital impact on those workers who sustain disabling injuries. However, employers, insurers, self-insurers and all citizens in the Commonwealth also have a vested interest in the efficiency and fairness of the system. In addition, for those cases which must be adjudicated, prompt adjudication ensures not only a professional and energetic bar, but more importantly that vital questions of eligibility are determined as quickly as possible.

In the interest of achieving an improved administration, the Governor's Management Task Force Report contained a number of recommendations which warrant consideration for implementation. Accordingly, the Secretary for Economic Affairs invited a group of individuals representative of labor, the insurance industry, the bar, self-insurers industry and the Legislature to review the Task Force recommendations and to examine such other subjects as would be necessary to effect an improved administration.

Historical Perspective

The traditional bar to the prompt adjudication of industrial accident claims has been a large backlog of pending hearings which by virtue of their number effectively preclude the hearing of cases in a timely fashion. While the pending caseload has been reduced

in recent years from over 16,000 to under 10,000 cases, even the current number is a burden to the system. Since new requests for hearing are filed at a rate of 1000 per month, it is imperative that the slate be wiped clean of old cases so that current claims can be adjudicated promptly.

More recently, a new dimension has been added to the problem of achieving efficient administration. The serious fiscal crisis of the Commonwealth caused severe reductions in the Division of Industrial Accident's administration budget. This led to the enforced attrition of a significant percentage of the Division's staff thus compounding the effort to expeditiously move the caseload.

The recommendations of the Advisory Group therefore are designed to accomplish the following objectives:

- . The reduction, within a reasonable period of time, of the backlog of hearings so that current claims can be handled on a current basis.

- . The implementation of those Task Force recommendations that would improve the operation of the Industrial Accident Board.

- . The development of a posture that will mitigate against recurrence of the current fiscal situation.

RECOMMENDATION

THAT THE DIVISION OF INDUSTRIAL ACCIDENTS BE FUNDED TO RETAIN CONCILIATORS TO BE SELECTED FROM THE MASTERS LIST OF THE SUPERIOR COURT; THAT SUCH CONCILIATORS BE PAID AT THE MASTER'S RATE; THAT CONCILIATORS BE ASSIGNED CASES, INITIALLY IN BOSTON, BEFORE TRIAL IN A FINAL REPORT TO RESOLVE THE ISSUES WITHOUT TRIAL.

BASIS

The Advisory Group believes that the use of paid conciliators will materially advance the number of cases adjusted or settled without trial; further, that the pressure of having to conciliate or immediately try the case will encourage resolutions. It was also felt that although paid conciliators are not being proposed as an alternative to additional Commissioners, they would provide the maximum flexibility, without long term commitment, in reducing the pending caseload.

However, it was recognized that if informal conciliation can accomplish the task then the need for paid conciliators might be obviated.

RECOMMENDATION

THAT THE INFORMAL UNPAID CONCILIATION PROGRAM SPONSORED BY THE MASSACHUSETTS BAR ASSOCIATION BE CONTINUED AND EXTENDED TO OTHER LOCATIONS IN THE COMMONWEALTH AS FEASIBLE.

BASIS

The Advisory Group recognizes the importance of the informal conciliation program and commends the Massachusetts Bar Association for its efforts.

The informal conciliation program currently performs 200 conciliations per month in Boston. The success ratio of cases resolved ranges from a high of 65% to approximately 20%. Extension of the program to other locations will permit about 400 cases per month total to be conciliated or 5000 per year. Where resolution cannot be accomplished, every effort is made to narrow the costested issues so that trials can be completed in the minimum feasible time. The implementation of both programs in tandem (formal and informal conciliation) should produce a meaningful impact on the pending caseload.

However, the Advisory Group recommends that effectivity of the informal program be evaluated before implementation of the paid conciliation program.

RECOMMENDATION

THAT THE TERM OF COMMISSIONER REMAIN AT TWELVE YEARS; THAT SELECTION OF FUTURE COMMISSIONERS BE MADE THROUGH A SELECTION COMMITTEE SIMILAR TO THE JUDICIAL NOMINATING COMMITTEE; THAT THE SALARY OF COMMISSIONERS BE EQUIVALENT TO THAT OF A DISTRICT COURT JUDGE; THAT TWO ADDITIONAL COMMISSIONERS BE APPOINTED FOR TWELVE YEAR TERMS.

BASIS

The Governor's Management Task Force recommended that the term of office be reduced to seven years. The Advisory Group is of the opinion that the longer term provides judicial independence and optimum freedom from political pressure and therefore is beneficial to the entire process. To ensure a high level of competence, the Advisory Group recommends that a Selection Committee be used to screen candidates for the position and to make non-binding recommendations of individuals for appointment. In view of the extensive travel, greater responsibility volume of cases requiring written decisions, and the statutory requirement that the position be full time to the exclusion of any other business, practice or profession, the Advisory Group recommends that the salary of Commissioners be made equivalent to that of a District Court Judges. While the formal and informal conciliation recommendations address the backlog of cases, the Advisory Group recognizes that the present number of Commissioners is barely adequate to handle the current caseload. Further, the Advisory Group recommends that in order to prevent an increase in pending cases, two additional Commissioners should be appointed. It was felt that two Commissioners would not necessitate a significant increase in staff personnel.

RECOMMENDATION

THAT LEGISLATION BE FILED TO AMEND SECTION 9 OF CHAPTER 152 SO AS TO PERMIT BILLS SUBMITTED FOR IMPARTIAL EXAMINATIONS AND THE PROCUREMENT OF HOSPITAL RECORDS TO BE APPROVED FOR PAYMENT BY THE DIVISION OF INDUSTRIAL ACCIDENTS AND PAYMENT TO BE MADE DIRECTLY TO THE PHYSICIAN OR HOSPITAL BY THE INSURER OR SELF-INSURER.

BASIS

At the present time the Division of Industrial Accidents pays the physician or hospital directly and is reimbursed by the insurer or self-insurer. Thus the Division requires a separate appropriation for this function and is obligated to perform a number of bookkeeping steps that are superfluous to its primary mission.

RECOMMENDATION

THAT THE PUBLIC EMPLOYEE'S SECTION AND ITS ASSOCIATED FUNCTION IN THE DIVISION OF INDUSTRIAL ACCIDENTS BE TRANSFERRED TO THE RESPONSIBILITY OF THE PERSONNEL ADMINISTRATOR.

BASIS

The Public Employee's Section is an administrative arm of the Division of Industrial Accidents. Its function is much akin to that of an insurance company vis a vis a private employer in that it prepares cases of state employees for determination as to whether the case will be voluntarily assumed. Since the initial determination is made by the Attorney General who is also responsible for subsequently defending claims brought before the Industrial Accident Board, there is an inherent conflict of interest in having such cases prepared by the staff of the agency that must hear the case.

RECOMMENDATION

THAT SINCE IT IS RECOGNIZED THAT DELIVERY OF REHABILITATION SERVICES TO PERSONS WHO HAVE SUSTAINED INDUSTRIAL ACCIDENTS CAN BE SUBSTANTIALLY IMPROVED BUT THAT THE NATURE OF THE CHANGES TO BE RECOMMENDED WILL REQUIRE A DEGREE OF REHABILITATION EXPERTISE NOT PRESENT IN THE ADVISORY GROUP, THEREFORE THAT A SPECIAL REHABILITATION STUDY GROUP BE FORMED TO DEVELOP THESE RECOMMENDATIONS.

BASIS

The Governor's Management Task Force Report recommended elimination of the Industrial Accident Rehabilitation Board. The Massachusetts Rehabilitation Commission would then assume the full responsibility for rehabilitation of injured workers in the absence of any successor agency. The Advisory Group was of the opinion that since injured workers constitute a special and significant segment of all persons subject to need rehabilitative services, there should be some agency which is primarily concerned with their rehabilitation. This position is in concordance with that of the National Commission on Workers' Compensation formulated in 1972.

RECOMMENDATION

THAT THE DIVISION OF INDUSTRIAL ACCIDENTS UTILIZE COURTROOM TAPE RECORDERS TO RECORD TESTIMONY GIVEN AT HEARINGS; THAT SECTION 8 OF CHAPTER 152 BE AMENDED SO AS TO PERMIT A REASONABLE CHARGE FOR CASSETTE COPIES OF RECORDED HEARINGS.

BASIS

Both the Governor's Management Task Force and the Advisory Group were of the opinion that audio recordings of hearing testimony was a sound concept. It was noted that after careful consideration the courts of the Commonwealth had decided to proceed in this direction and that the Industrial Accident Board should also. It was determined that in the event that an employee-claimant who is not represented by counsel pursues the claim at a hearing level the fee normally charged should be waived.

RECOMMENDATION

THAT NO ACTION BE TAKEN ON THE SUGGESTION THAT A SINGLE MEMBER OF THE INDUSTRIAL ACCIDENT BOARD BE VESTED WITH FINAL AUTHORITY TO APPROVE LUMP SUM SETTLEMENTS. .

BASIS

Present law provides for Board approval of lump sum settlements. It was suggested that the recent delay in processing such settlements was due to the waiting for Board approval. However, it was noted that the true reason for the delay (which has decreased substantially) had been insufficient clerical staff to certify completeness and accuracy; further that the entire process was hampered by a significant percentage of incomplete or inaccurate settlements as submitted.

RECOMMENDATION

THAT THE DIVISION OF INDUSTRIAL ACCIDENTS ESTABLISH, INITIALLY, ONE BRANCH OFFICE IN THE WESTERN PART OF THE STATE TO PROVIDE BETTER COMMUNICATION WITH EMPLOYERS AND EMPLOYEES RELATIVE TO THEIR RESPECTIVE RIGHTS UNDER THE LAW.

BASIS

The Advisory Group recognized that since the Division is based in Boston the quality of its informational service, particularly, suffered in those communities located in distant parts of the state. Further, it was noted that a branch office could be so constituted as to provide more timely service to citizens far removed from Boston in terms of conferences, conciliation contacts and general information; thus holding the possibility of reducing the amount of needless litigation.

The authority for the Division to establish branch offices is contained in Section 22 Chapter 23 of the General Laws.

RECOMMENDATION

THAT SINCE THERE IS EVIDENCE THAT THE COST OF WORKMEN'S COMPENSATION IN MASSACHUSETTS COMPARES UNFAVORABLY WITH COSTS IN SIMILAR STATES A COMPARATIVE STUDY BE MADE TO DETERMINE IF, IN FACT, SUCH IS THE CASE AND, IF SO, THE REASONS THEREFOR.

BASIS

The Advisory Group was acquainted with the oft-repeated statement that Massachusetts is out-of-line with other similar states in terms of the overall cost of workmen's compensation. While it was pointed out that the delays currently inherent in the system contribute heavily to a high cost image, there was consensus that the Advisory Group was ill-equipped to take on a comprehensive comparative study. It was recognized that for such a study to be meaningful, it must look beyond a mere comparison of benefit structures.

